

### Remarks

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Initially, although the Office Action Summary page indicates that claims 1-8 are pending in the application, the application as filed also includes claim 9. This claim has not been grouped among any of Groups I-IV in the Office Action of September 9, 2003. The Examiner is kindly requested to indicate which Group should cover claim 9.

In response to the rejections of the claims under 35 U.S.C. §112, claim 1 has been amended to indicate that the materials are manufactured from the chemically treated garbage, and claim 6 has been amended to indicate that the additive (D) is calcium oxide (E). Additional amendments of a minor editorial nature have also been made in claims 1 and 6.

The rejection of claims 1-3 and 6 under the second paragraph of 35 U.S.C. §112 is respectfully traversed.

The Examiner indicates that claims 1-3 are indefinite because they do not recite what the resulting manufactured materials are. However, the present invention is directed to recycling organic garbage, rather than to manufacturing any particular materials. Therefore, Applicant respectfully submits that it is not necessary to recite what particular materials are manufactured. Furthermore, the rejection of a claim as being indefinite under the second paragraph of 35 U.S.C. §112 implies that one of ordinary skill in the art could not determine the subject matter on which the claim reads. *In re Barr*, 170 USPQ 330. If the metes and bounds of the invention can be determined from the claim language, then the claim is not indefinite, even though it covers a large number of possible process steps and materials. *In re Goffe*, 188 USPQ 131. If Applicant has not otherwise indicated that he/she intends the claim to be of a different scope and if the scope of the claim is clear, then the claim does particularly point out and distinctly claim the subject matter that Applicant regards as his/her invention. *In re Ehrreich*, 200 USPQ 504.

In view of these considerations, Applicant takes the position that the failure of the claims to recite what the resulting manufactured materials are, does not render the claims indefinite under the second paragraph of 35 U.S.C. §112. Although the scope of the term "materials" in claim 1 is broad,

one of ordinary skill in the art would nevertheless be able to determine that claim 1 has been infringed if any materials have been made from garbage that has been chemically treated in accordance with the method recited in claim 1.

The rejection of claims 1-3 under the second paragraph of 35 U.S.C. §112 as being incomplete for omitting essential steps is respectfully traversed.

The Examiner takes the position that the omission amounts to a gap between the steps, specifically, the steps used to actually manufacture the materials. In this regard, the Examiner refers to MPEP 2172.01. However, this section of the Manual discusses the omission of matter which is “disclosed to be essential to the invention as described in the specification or in other statements of record . . . .” As examples of such essential material, reference is made to “missing . . . steps . . . described by the applicant(s) as necessary to practice the invention.” As applied to the present factual situation, neither the specification, nor any statement of record, describes the essential nature of the steps used to actually manufacture the materials. As indicated above, the present invention is directed to recycling organic garbage, and as indicated at page 8, lines 12-15 of the specification, the invention is based on a chemical property that organic garbage containing fats and oils are mixed into alkaline material to produce a gelled mixture, which is recycled into various materials. The particular steps actually used to manufacture the materials from the chemically treated garbage is not part of the inventive concept on which the present invention is based. Accordingly, it is not necessary to recite the manufacturing steps in the claims. Further attention in this regard is directed to the case law cited above.

The Examiner’s comment in item 5 on page 2 of the Office Action concerning insufficient antecedent basis in claim 6, has been rendered moot by the amendment to this claim.

Therefore, in view of the foregoing amendments and remarks, it is submitted that each of the grounds of rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

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August 18, 2004